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HOUSE BILL 106

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

John A. Heaton

FOR THE RADIOACTIVE AND HAZARDOUS MATERIALS COMMITTEE

AN ACT

RELATING TO THE ENVIRONMENT; PROVIDING FOR EXEMPTION FROM CIVIL
PENALTIES FOR PERSONS WHO VOLUNTARILY REPORT POTENTIAL
VIOLATIONS WITHIN SIXTY DAYS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 74-1-6 NMSA 1978 (being Laws 1971,
Chapter 277, Section 9, as amended) is amended to read:

"74-1-6. DEPARTMENT--POWERS.--The department shall have
power to:

- A. sue and be sued;
- B. make contracts to carry out its delegated
duties;
- C. enter into agreements with environmental and
consumer protection agencies of other states and the federal
government pertaining to duties of the department;

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underscored material = new
[bracketed material] = delete

1 D. enter into investigation and remediation
2 agreements with persons potentially responsible for sites
3 within New Mexico subject to the federal Comprehensive
4 Environmental Response, Compensation, and Liability Act of
5 1980, and such agreements shall not duplicate or take any
6 authority from the oil conservation commission;

7 E. serve as agent of the state in matters of
8 environmental management and consumer protection not expressly
9 delegated by law to another department, commission or political
10 subdivision in which the United States is a party;

11 F. enforce the rules, regulations and orders
12 promulgated by the board and environmental management and
13 consumer protection laws for which the department is
14 responsible by appropriate action in courts of competent
15 jurisdiction;

16 G. collect civil penalties pursuant to law, except
17 for penalties for violations from persons that:

18 (1) within sixty days of the discovery of a
19 potential violation, voluntarily report to the department
20 potential violations of law enforced by the department;

21 (2) initiate corrective action for the
22 potential violation;

23 (3) have not previously violated the same
24 provision of law; and

25 (4) do not present an imminent and substantial

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underscoring material = new
[bracketed material] = delete

1 endangerment to health or the environment by the potential
2 violation.

3 [G-] H. on the same basis as any other person,
4 recommend and propose regulations for promulgation by the
5 board;

6 [H-] I. on the same basis as any other person,
7 present data, views or arguments and examine witnesses and
8 otherwise participate at all hearings conducted by the board or
9 any other administrative agency with responsibility in the
10 areas of environmental management or consumer protection, but
11 shall not be given any special status over any other party; and

12 [I-] J. have such other powers as may be necessary
13 and appropriate for the exercise of the powers and duties
14 delegated to the department."

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